

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury
P.O. Box 2508 Room 6417
Cincinnati, OH 45201

Date: OCT 24 2002

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Employer Identification Number

[REDACTED]

Person to Contact—I.D. Number

[REDACTED]

Contact Telephone Numbers

Phone

[REDACTED]

Fax

[REDACTED]

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth.

Your organization was formed under the laws of [REDACTED] for the purpose of conducting religious activities. Your description of activities provide that you conduct a ministry to feed, clothe, house and teach young men and women how to love themselves and come to the realization of how important it is to become productive citizens.

You describe your daily activities as involving in depth bible teachings beginning around 6:00 am and including a breakfast break at around 8:30. You further stated that you include prayer and then resume your bible lessons that you refer to as "12 steps to spiritual awareness". You identified a number of lessons carried out by you and the amount of time devoted to such lessons. According to the information submitted, the program covers approximately an entire year.

The activity that you primarily describe is the [REDACTED]. In addition, you have described activities normally consistent with church organizations (i.e. religious worship services). The information that you provided suggests that members of the "church" are attracted through your ministry programs. In your initial submission, you indicated that your organization consisted of [REDACTED] members, [REDACTED] of which were board members. You indicated that of the two remaining members, one came from [REDACTED]. In your correspondence dated [REDACTED] you stated

that the membership increased by [REDACTED] individuals, three of which were in the [REDACTED] program.

In addition, you indicated that the organization conducts religious worship services. You submitted a schedule indicating the days and times of the week on which services were held as well as copies of various material printed and/or distributed by you. You have requested classification as a "church" under section 509(a)(1) and 170(b)(1)(A)(i).

Your activities take place in the residence of your principal officers, [REDACTED] who represent two of the four members of the organization's governing body. The residence is currently leased at a rate of \$ [REDACTED] and is, according to the information you provided, donated by the working officers of the organization on a monthly basis. Information submitted further indicates that [REDACTED] contributes approximately \$ [REDACTED] per month to the organization. Other expenditures include amounts for utilities, clothing costs and medical supplies for the residents, transportation, pocket monies, other recreational needs, food and resources for creating resumes.

In your corresponding letter dated [REDACTED], you stated that "there is a family relationship between founders, incorporators, directors, trustees, officers and the members of our congregation. One of the incorporators of the church is the [REDACTED], [REDACTED] and a member is [REDACTED] and a [REDACTED]."

Section 501(c)(3) of the Internal Revenue Code provides for the exemption of organizations which are organized and operated exclusively for charitable, religious and educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the income tax regulations provides that in order to qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more specified exempt purposes. Failure to meet either the organizational or operational tests will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulation section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized and operated exclusively for charitable, etc. purposes if it is organized for the benefit of private interests such as designated individuals, the creator or

his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 81-94, 1981-1 CB 330, describes a "church" that was formed by a Professional nurse (who is also the "church's" minister, director, and principal officer) and, that was used primarily as a vehicle for handling the nurse's personal financial transactions. The organization was held not to qualify for exemption from tax under section 501(c)(3) of the Code.

The court upheld denial of tax-exempt status in A.H. Nittler, 39 TCM 422, Dec. 36, 416(M), TC Memo 1979-440, to a corporation and a trust which were found to have served the business and private interests of their creators rather than any public benefit specified in Code Section 501(c)(3).

Similarly, in Truth Tabernacle, 41 TCM 1405, Dec. 37, 872(M), TC Memo 1981-214, an organization which included a "General Overseer" who had exclusive control over a religious association's property and whose living expenses were paid for by the association, was held not to be operated for exempt purposes.

Also, in Bill Wildt's Motorsport Advancement Crusade, 56 TCM 1401, Dec. 45,520(M), TC Memo 1989-93, exemption was denied since the organization failed to carry its burden of showing that it was operated exclusively for exempt purposes or that its net earnings did not inure to the benefit of private individuals.

Further, in Basic Bible Church v. Commissioner, 74 T.C. 846 (1980) wherein the organization's founder and his wife executed vows of poverty and transferred all of their assets and income to the organization on the condition that it qualified under section 501(c)(3). The founder controlled all financial decisions of the organization. The court found that a substantial purpose of the organization was to serve the private interests of the founder and his wife. Majorities of the contributions to the organization were received from the founder and his wife, and were spent on their subsistence, travel, and the upkeep and utilities of their home.

Likewise, in Beth-El Ministries, Inc. v. United States, 79-2 USTC 9412 (D.D.C. 1979), an organization whose members donated all their possessions and, if employed outside the organization, their salaries, to the organization, and which provided its members benefits in the form of food, clothing, shelter, medical care, recreational facilities, and educational services, was held not exempt as a religious organization.

Your organization meets the organizational test of section 501(c)(3), and carries on, to a large extent, religious activities. Your organization undoubtedly, conducts a program, which on all accounts may be deemed charitable. In addition, you obviously have grounded the program in the fundamentals of religious teachings. You have not however, met the burden by demonstrating

that you are operated exclusively for charitable or religious purposes. This program of accepting individuals into your home, providing food, lodging and other subsistence requires that such individuals sign and agree to a set of rules and regulations in contract form between them and your organization, failure of which may lead to suspension or expulsion. In return, you provide for their subsistence and general maintenance while the individuals agree to a program that includes structured religious teaching. In this respect, the individuals are not necessarily functioning in a manner consistent with a congregation, following or a body of believers who come or go on their own accord but rather like family where individuals look after one another and help each other out.

In *American Guidance Foundation v. U.S.* 80-1 USTC 9452 (D.D.C. 1980), it was held that a religious corporation, exempt under section 501(c)(3), was not a church under IRC 170. The court reasoned that certain criteria, namely, the existence of an established congregation, served by an organized ministry, the provision of regular religious services and religious education for the young, and the dissemination of a doctrinal code, are of central importance in distinguishing a "church" from other forms of religious organizations. Because the organization's religious activities were confined to the members of the founder's immediate family, the organization could not fulfill the association normally associated with the term "church" and therefore, could not qualify as a church under IRC 170. The court stated that, at a minimum, a church must include a body of believers that assemble regularly in order to worship. It must also be reasonably available to the public in its conduct of worship, in its educational instruction and in its promulgation of doctrine.

Arguably, you appear to possess some of the characteristics referred to above as they pertain to the remaining members of the organization. Much of the literature that you submitted, have to do with the Pastor's participation in other religious services rather than with your organization. In any case, the expenditures associated with the conduct of your activities are primarily the personal living expenses of the principal officers, [REDACTED] which include the lease expense of the home and utilities, with the remainder of the expenditures, according to information submitted by you, representing the care of those persons in transition in your organization. Likewise, the primary source of funding to the organization, are the income contributions of the founders.

Your situation is similar if not identical to the above cited Revenue Ruling and Court cases of which your organization's arrangement constitutes inurement to the principal directors of the organization and creates a mechanism for them to have their personal living expenses and subsistence provided through the organization.

We have therefore determined, that your organization is not eligible for classification as a "church" described in Section 170(b)(1)(A)(i) of the Internal Revenue Code as the manner in which you are set up is similar to the Revenue Rulings and Court Cases cited above.

Moreover, based on the information submitted, the Internal Revenue Code, regulations and the case law cited, we have concluded that you do not qualify for tax-exempt status as an organization described in section 501(c)(3) of the Code.

Consideration was given to whether you qualify for exemption under other subsections of section 501© of the Code. However, we have concluded that you do not qualify under another subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

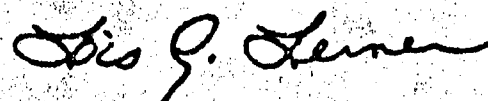
You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lois G. Lerner".

Director, Exempt Organizations

Enclosures:

Publication 892
Form 6018

Department of the Treasury - Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Case Number [REDACTED]	Date of Latest Determination Letter ****
Employer Identification Number [REDACTED]	Date of Proposed Adverse Action Letter ****

Name and Address of Organization

[REDACTED]
[REDACTED]
[REDACTED]

I consent to the proposed adverse action relative to the above organization as shown below. I understand that if Section 7428, Declaratory Judgements Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

☒ Denial of exemption

☐ Revocation of exemption, effective.

☐ Modification of exemption from section 501(c)() to section 501(), effective

☐ Classification as a private foundation described in section 509(a), effective ****

☐ Classification as an private operating foundation described in sections 509(a) and 4942(j)(3), effective for

☐ Classification as an organization described in section 509(a)(), effective

☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgement under section 7428.

(Signature instructions on Back)

Name of Organization:

[REDACTED]

Signature and Title	Date
Signature and Title	Date